

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**LAUREN BAUCOM,**

**Plaintiff,**

**v.**

**NANCY A. BERRYHILL,  
Acting Commissioner of  
Social Security Administration,**

**Defendant.**

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**Case No. 15-CV-154-JHP-KEW**

**ORDER AFFIRMING AND ADOPTING THE FINDINGS AND  
RECOMMENDATION OF THE UNITED STATES  
MAGISTRATE JUDGE**

On May 22, 2017, the United States Magistrate Judge entered a Findings and Recommendation in regard to Plaintiff's request for an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). The Magistrate Judge recommended that Plaintiff's Motion be granted. The Commissioner filed an objection to the Magistrate Judge's Findings and Recommendation on May 31, 2017. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(a).

This Court finds that the Findings and Recommendation of the Magistrate Judge is supported by the record. Therefore, upon full consideration of the entire record and the issues presented herein, the Court finds and orders that the Findings and Recommendation entered by the United States Magistrate Judge on May 22, 2017, be **AFFIRMED** and **ADOPTED** by this Court as its Findings and Order. It is **ORDERED** that Plaintiff's Motion for Attorney Fees Under the Equal Access to Justice Act (Doc. No. 21) is **GRANTED**. Accordingly, the Government is ordered to pay Plaintiff's attorney's fees in the total amount of \$6,000.50.<sup>1</sup>

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<sup>1</sup> The Magistrate Judge recommended an award in the amount of \$5,650.00. (Doc. No. 30, at 3). However, Plaintiff requested an additional \$350.00 in her Reply brief for reviewing the Commissioner's objection and preparing the Reply. (Doc. No. 28, at 4). The Commissioner made no specific objection to this additional amount, and the Court

It is further **ORDERED** that the award in this case is to be made payable to Plaintiff, not Plaintiff's counsel, or jointly to Plaintiff and Plaintiff's counsel, as 28 U.S.C. § 2412(a)(1) and (d)(1)(A) provide for an award of costs and attorney's fees to a "prevailing party." Further, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. §406(b)(1), he shall refund the smaller award to the plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 5th day of July, 2017.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma

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finds this requested amount to be reasonable. The Court views the Magistrate Judge's failure to address this additional fee request as a mere oversight.